THE HON'BLE MR JUSTICE B. SUDERSHAN REDDY

and

THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 6440 of 2004

Dated 02/09/2005

Between:

M/s. Sri Krishna Jewellers, 5-8-612, Abid Road,

Hyderabad-500 001,
rep by Partner, Mr. Shiv Charan

..... PETITIONER

AND

1 The Commercial Tax officer, S.D. Road Circle, Secunderabad
2 The Commercial Tax Officer, M.J. Road Market Circle, Hyderabad

.....RESPONDENTS

THE HON'BLE MR JUSTICE B. SUDERSHAN REDDY

and

THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 6440 of 2004

Oral Order: (Per Sri B.Sudershan Reddy,J)

The subject matter that arises for consideration in this writ petition is squarely covered by an authoritative pronouncement of this

Court in ***AMBICA LAMP HOUSE, RAJAHMUNDRY Vs. THE COMMERCIAL TAX OFFICER (INT)-1 ENFORCEMENT, HYDERABAD*** wherein this Court took the view that the respondents in law are not entitled to collect the tax, compounding fee and penalty even without making any assessment merely because the premises of the dealer has been subjected to inspection and search.

Following the said judgment, this writ petition is allowed declaring the action of the 1st respondent in collecting Rs.3,92,472/- which is twice the value of the alleged excess gold jewellery and Rs.2,730/- as twice the tax of Rs.1,365 totalling to Rs.3,95,202/- as illegal and void. Consequently, the respondents are directed to return the said amounts to the petitioner within a period of two weeks from the date of receipt of a copy of this order. There shall be an order accordingly.

This order, however, shall not preclude the respondents from proceeding with the assessment and pass appropriate orders in accordance with law. No costs.

(B.Sudershan Reddy,J)

Dated 02.09.2005

(S.Ananda Reddy,J)

msv